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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

SEALED
BY COURT ORDER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JIMMY KUO,
a/k/a Chien Ming Kuo,
SIMON KUO,
a/k/a Jiang-Kuo Kuo, and
JERRY KUO,

Defendants.

CR

No. 02-20047

VIOLATIONS: 18 U.S.C. § 371 –
Conspiracy to Commit Criminal Copyright
Infringement and Traffic in Counterfeit
Goods; 17 U.S.C. § 506(a)(1) and 18 U.S.C.
§ 2319(b)(1) – Copyright Infringement;
18 U.S.C. § 2320(a) – Trafficking in
Counterfeit Goods; 18 U.S.C. § 982 –
Criminal Forfeiture

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 371 – Conspiracy)

1. On or about and between a date unknown to the Grand Jury but no later than May 24, 2000, and February 28, 2002, both dates being approximate and inclusive, in the Northern District of California, and elsewhere, the defendants

JIMMY KUO,
a/k/a Chien Ming Kuo,
SIMON KUO,
a/k/a Jiang-Kuo Kuo, and
JERRY KUO,

INDICTMENT

1 did conspire with one another and other persons (1) to willfully and for the purpose of
2 commercial advantage and private financial gain infringe the copyright of copyrighted works by
3 reproducing and distributing during a 180 day-period at least ten (10) unauthorized copies of
4 copyrighted works which have a total retail value of at least \$2,500 in violation of 17 U.S.C.
5 Section 506(a)(1) and 18 U.S.C. Section 2319(a)(1); and (2) to intentionally traffic in goods and
6 knowingly use a counterfeit mark on and in connection with those goods, by knowingly
7 transporting, transferring, and disposing of for value, counterfeit computer software that
8 contained a counterfeit mark, in violation of Title 18, United States Code, Section 2320(a).

9 2. In furtherance of the conspiracy and to attain the objects thereof, the following
10 overt acts, among others, were committed in the Northern District of California and elsewhere:

11 a. On or about May 24, 2000, defendant Jimmy Kuo sold 50 units of
12 counterfeit Norton Systemwork software for \$500.00.

13 b. On or about June 23, 2000, defendant Jimmy Kuo sold 100 units
14 counterfeit Microsoft Windows 98, Second Edition, software for \$3,800.00.

15 c. On or about July 6, 2000, defendant Jimmy Kuo accepted payment of
16 \$8,400.00 for an order of 200 units of counterfeit Microsoft Office 2000 software.

17 d. On or about August 25, 2000, defendant Jimmy Kuo sold 26 units of
18 counterfeit Microsoft Windows 98, Second Edition, software for \$1066.00.

19 e. On or about September 21, 2000, defendant Simon Kuo sold 100 units of
20 counterfeit Symantec Winfax Pro software for \$2,200.00 and 50 units of counterfeit Symantec
21 Norton System Works 2000 software for \$600.00.

22 f. On or about October 12, 2000, defendant Simon Kuo sold 25 units of
23 counterfeit Microsoft Office 2000 software for \$3,500.00, 10 units of counterfeit Microsoft
24 Windows NT Workstation, Version 4.0, software for \$1,500.00, and 100 units of counterfeit
25 Microsoft Windows 98, Second Edition, software for \$4,500.00.

26 g. On or about December 13, 2000, defendant Simon Kuo sold 50 units of
27 counterfeit Microsoft Windows NT, Version 4.0, software for \$2,000.00 and 50 units of
28 counterfeit Microsoft Windows NT Server, Version 4.0, software for \$7,250.00.

1 h. On or about February 28, 2001, defendant Simon Kuo sold 25 units of
2 counterfeit Microsoft Windows NT Server, Version 4.0, software for \$3,500.00 and 100 units of
3 counterfeit Microsoft Office 2000 software for \$3,000.00.

4 i. On or about March 29, 2001, defendant Simon Kuo sold 25 units of
5 counterfeit Microsoft Windows 2000 Server, 20 Client Package, for \$2,000.00.

6 j. On or about July 26, 2001, defendant Simon Kuo sold 25 units of
7 counterfeit Microsoft Windows NT Workstation, Version 4.0, for \$1,125.00, and 50 units of
8 counterfeit Microsoft Windows Millenium for \$2,000.00.

9 k. On or about November 11, 2001, defendant Jerry Kuo discussed the
10 purchase of additional counterfeit software on the phone.

11 l. On or about December 12, 2001, defendant Simon Kuo discussed the
12 purchase of additional counterfeit software in an email and indicated that his brother, Jerry Kuo,
13 would sell such items while Simon Kuo was in Taiwan.

14 m. On or about December 17, 2001, defendant Jerry Kuo discussed the
15 purchase of additional counterfeit software on the phone.

16 n. On or about January 2, 2002, defendant Jerry Kuo discussed the purchase
17 of additional counterfeit software on the phone.

18 o. On or about January 4, 2002, defendant Jerry Kuo sold 50 units of
19 counterfeit Microsoft Windows 98, Second Edition, software for \$2,100.00.

20 p. On or about January 24, 2002, defendant Simon Kuo sold 21 units of
21 counterfeit Microsoft Windows 98, Second Edition, software for \$882.00.

22 q. On or about February 28, 2002, defendant Simon Kuo sold 50 units of
23 counterfeit Microsoft Windows Millenium for \$2,100.00.

24 All in violation of Title 18, United States Code, Section 371.

1 COUNT TWO (17 U.S.C. § 506(a)(1), 18 U.S.C. § 2319(b)(1) – Criminal Copyright
2 Infringement)

3 On or about and between May 24, 2000, and August 25, 2000, in the Northern District of
4 California and elsewhere, the defendant

5 JIMMY KUO,
6 a/k/a Chien Ming Kuo,

7 did willfully and for the purpose of commercial advantage and private financial gain infringe the
8 copyright of copyrighted works, to wit: Norton Systemworks 2000, Microsoft Office 2000, and
9 Microsoft Windows 98; by reproducing and distributing during a 180-day period at least ten (10)
10 unauthorized copies of copyrighted works which have a total retail value of more than \$2,500, in
11 violation of Title 17, United States Code, Section 506(a)(1) and Title 18 United States Code,
12 Section 2319(b)(1).

13 COUNT THREE (17 U.S.C. § 506(a)(1), 18 U.S.C. § 2319(b)(1) – Criminal Copyright
14 Infringement)

15 On or about and between July 26, 2001, and January 5, 2002, in the Northern District of
16 California and elsewhere, the defendants

17 SIMON KUO,
18 a/k/a Jiang-Kuo Kuo, and
19 JERRY KUO,

20 did willfully and for the purpose of commercial advantage and private financial gain infringe the
21 copyright of copyrighted works, to wit: Microsoft Windows NT Workstation, Microsoft
22 Windows Millenium, and Microsoft Windows 98; by reproducing and distributing during a 180-
23 day period at least ten (10) unauthorized copies of copyrighted works which have a total retail
24 value of more than \$2,500, in violation of Title 17, United States Code, Section 506(a)(1) and
25 Title 18 United States Code, Section 2319(b)(1).

26 COUNTS FOUR THROUGH EIGHT: (18 U.S.C. § 2320 – Trafficking in Counterfeit Goods)

27 On or about the dates set forth below, in the Northern District of California, and
28 elsewhere, the defendant, as indicated, did intentionally traffic in goods and knowingly use
counterfeit marks on and in connection with those goods, by knowingly transporting,

transferring, and disposing of for value, the following packages of counterfeit computer software that contained counterfeit marks, with each sale or delivery constituting a separate violation of Title 18, United States Code, Section 2320(a):

<u>Count</u>	<u>Defendant</u>	<u>Date</u>	<u>Counterfeit Goods</u>
FOUR	JIMMY KUO	July 6, 2000	200 Units of Microsoft Office 2000
FIVE	JIMMY KUO	August 25, 2000	26 Units of Microsoft Windows 98, Second Edition; 1 Unit of Microsoft Windows NT, Version 4.0
SIX	SIMON KUO	October 12, 2000	25 Units of Microsoft Office 2000; 10 Units of Microsoft Windows NT, Version 4.0; 100 Units of Microsoft Windows 98, Second Edition
SEVEN	JERRY KUO	January 4, 2002	50 Units of Microsoft Windows 98, Second Edition
EIGHT	SIMON KUO	February 28, 2002	50 Units of Microsoft Windows Millenium

All in violation of Title 18, United States Code, Section 2320(a).

COUNT NINE: (18 U.S.C. §§ 981(a)(1)(C), 982(a)(2); 28 U.S.C. § 2461(c) - Criminal Forfeiture)

As a result of committing the offenses alleged in Counts Two through Eight of this Indictment (criminal copyright infringement and trafficking in counterfeit goods), the defendants

JIMMY KUO,
a/k/a Chien Ming Kuo,
SIMON KUO,
a/k/a Jiang-Kuo Kuo, and
JERRY KUO,

shall forfeit to the United States, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(2) and 28 U.S.C. § 2461(c), approximately \$49,600.00 in United States currency or after acquired assets traceable thereto, in that such sum in aggregate was proceeds of the criminal copyright infringement and trafficking in counterfeit goods offenses.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;

1 (3) has been placed beyond the jurisdiction of the Court;
2 (4) has been substantially diminished in value; or
3 (5) has been commingled with other property which cannot be subdivided without difficulty;
4 it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other
5 property of said defendant(s) up to the value of the above forfeitable property, pursuant to
6 Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), and Title 28, United States
7 Code, Section 2461(c).

8 DATED:

A TRUE BILL.

9
10 FOREPERSON

11 DAVID W. SHAPIRO
12 United States Attorney

13 
14 ELIZABETH DELAVEGA
15 Chief, San Jose Branch

16 (Approved as to form: )
17 AUSA Malecek
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